

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION

MAGISTRATE JUDGE  
CIV-ZLOCH

UNITED STATES OF AMERICA,

Plaintiff,

V.

HONEYWELL INTERNATIONAL  
INC.,

Defendant.

07-81036

CIVIL ACTION NO.:

FILED by	D.C.
INTAKE	
NOV -2 2007	
CLARENCE MADDOX CLERK U.S. DIST. CT. S.D. OF FLA. • FT. LAUD.	

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency (hereafter "U.S. EPA" or "EPA"), files this complaint and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action seeking a ruling of liability under Sections 107(a)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, ("CERCLA"), 42 U.S.C. § 9607(a)(2), a declaratory judgment of liability for future response costs under Section 113(g)(2) of CERCLA, 42 U.S.C. §9613(g)(2), and injunctive relief under Section 106(a), 42 U.S.C. § 9606(a). The United States seeks this relief in connection with the release or threatened release of hazardous substances into the environment at the Solitron Devices Superfund Alternative Site located in Riviera Beach, Florida. (hereinafter referred to as the "Site").

## JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action, and the Defendant, pursuant to Sections 106(a), 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9606(a), 9607(a) and 9613(b), and under 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this District under Sections 106(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9606(a) and 9613(b), and 28 U.S.C. § 1391(b) and (c), because the claims arose, and the threatened and actual releases of hazardous substances occurred, within this judicial district.

## DEFENDANT

4. The Defendant is a “person,” within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

5. The Defendant is a person who owned and operated a facility on-Site at the time of disposal of hazardous substances pursuant to Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(1).

## GENERAL ALLEGATIONS

6. The Site consists of 8.65 acres of industrial property located at 1177 Blue Heron Boulevard (the “Solitron Property”), in the City of Riviera Beach, Florida (“City”), together with the areal extent of the groundwater contamination emanating from the Solitron Property and portions of the City sewer system connected to the Solitron Property

7. From 1960 to January 1965, Honeywell owned the manufacturing facility on the Solitron Property, and discharged into the City sewer system solvents, including trichloroethylene (“TCE”), dichlorobenzene, and xylene, which it used to clean the electronic

components it manufactured. Solitron Devices, Inc. ("Solitron") purchased the facility from Honeywell and continued operations including discharges to the City sewer system through 1992.

8. In response to a release or a substantial threat of a release of hazardous substances at or from the Site, EPA Region 4 performed a Site Screening Investigation at the Site and detected TCE in soils and groundwater on the Site property in February of 1985. The hydrogeological and analytical data collected from the borings and monitoring wells installed by the Florida Department of Environmental Protection ("FDEP") demonstrated in September and October of 1985 that the Site was one of the sources of groundwater contamination found in the area.

9. The detected contaminants include chromium and arsenic in the soils and TCE, vinyl chloride, chlorobenzene, arsenic, ethylbenzene, xylenes, aluminum, iron, chloroform, chlorobenzene, chloroform, 1,2-dichloroethene(total), tetrachloroethene, trichloroethane, (2-ethylhexyl) phthalate, 1,4-dichlorobenzene, 2,4-dichlorophenol, arsenic, cadmium, iron, and thallium in the groundwater. All such contaminants are believed to have been generated by Honeywell's and Solitron's operations at the Solitron Property.

10. The aforementioned contaminants listed in paragraph 9 above are each a "hazardous substance" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

11. In response to a release or a substantial threat of a release of hazardous substances at or from the Site, EPA commenced on February 27, 1997, an Expanded Site Inspection ("ESI") and Remedial Investigation ("RI") for the Site pursuant to 40 C.F.R. § 300.430. EPA completed the ESI/RI Report on April 22, 1999. On March 1, 1999, Honeywell entered into an Administrative Order on Consent to perform the Feasibility Study ("FS"). In response to a

request by EPA, Honeywell conducted supplemental remedial investigation activities from September 1999 through January 2003. Honeywell submitted the results of the supplemental remedial investigation and revised FS in July 2003. EPA issued a Proposed Plan on April 13, 2004 and executed a Record of Decision for the final Site remedy ("ROD") in December of 2004.

12. The ROD provides for a remedy which includes the following: removal of the top two feet of contaminated surface soils with off-site disposal, and extraction of contaminated groundwater and treatment with air-stripping and then re-injection of the clean groundwater with natural attenuation, as more particularly described in the ROD.

13. The ROD is not inconsistent with CERCLA and the National Contingency Plan, 40 C.F.R. Part 300.

14. There were and are "releases" within the meaning of Section 101(22) of CERCLA, 42 U.S.C. §9601 (22), as well as the threat of continuing releases of hazardous substances, into the environment at and from the Site.

15. The Site is a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601.

16. The United States has incurred and will continue to incur costs of removal and remedial actions not inconsistent with the National Contingency Plan in responding to the release or threatened release of hazardous substances at and from the Site, within the meaning of Section 101(23), (24), and (25) of CERCLA, 42 U.S.C. § 9601(23), (24), and (25).

### FIRST CLAIM FOR RELIEF

17. Section 107(a) of CERCLA provides, in pertinent part:

(2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of . . . from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous Substance, shall be liable for --

(A) all costs of removal or remedial action incurred by the United States Government . . . not inconsistent with the national contingency plan. . . .

42 U.S.C. § 9607(a).

18. Section 113(g)(2) of CERCLA pertains to actions for recovery of costs under

Section 107 of CERCLA, 42 U.S.C. § 9607, and provides in pertinent part:

In any such action described in this subsection, the court shall enter a declaratory judgment on liability for response costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages.

42 U.S.C. § 9613(g)(2).

19. The Defendant is liable to the United States for all response costs, including the costs of removal and remedial actions to be incurred in the future by the United States with respect to the Site pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

20. The Defendant is liable for a declaratory judgment on liability for response costs or damages that will be binding on any subsequent action or actions to recover further response costs or damages, pursuant to 42 U.S.C. § 9613(g)(2).

## SECOND CLAIM FOR RELIEF

21. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in pertinent part:

In addition to any other action taken by a State or local government, when the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may require the Attorney General of the United States to secure such relief as may be necessary to abate such danger or threat, and the district court of the United States in the district in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

22. By Executive Order 12580 of January 23, 1987, the President's functions under 106(a) of CERCLA, 42 U.S.C. 9606(a), have been delegated to the Administrator of EPA.

23. EPA has determined that there is or may be an imminent and substantial endangerment to the public health or welfare or the environment because of actual or threatened releases of hazardous substances from the Site.

24. The Defendant is liable for the injunctive relief to which the United States is entitled at the Site under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, respectfully requests that the

Court:

1. Order Defendant to abate the threat posed by the release or threatened release of hazardous substances by performing the remedy selected by EPA in the ROD;
2. Award Plaintiff a declaratory judgment that the Defendants are liable for all future costs incurred by the United States in connection with the Site; and
3. Grant the United States such other relief as this Court may deem appropriate.

Respectfully submitted,

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